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Paper No. 10

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In re Application of
Alexander, et al.
Application No. 09/817,779
Filed: March 26, 2001
For: TEMPORARY SIGN SYSTEM

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AUG 26 2002

OFFICE OF PETITIONS

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the December 7, 2001 petition under 37 C.F.R. §1.47(a).

Petition History

This application was filed on March 26, 2001. However, the application lacked a declaration signed by the inventor as required by 35 U.S.C. §25, 35 U.S.C. §115, 37 C.F.R. §1.63, and 37 C.F.R. §1.68. Accordingly, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts of nonprovisional application (hereinafter "notice") to the address of record on May 7, 2001. The notice requested a signed declaration, the basic filing fee, additional claims fees, and a new set of drawings. It set a two month period for replying.

Petitioner replied on June 26, 2001. However, while it addressed the fee deficiencies and the substitution of drawings, it did not include the required declaration.

Accordingly, the office mailed a notice of incomplete reply on July 18, 2001. It did not extend the period for replying.

Petitioner filed this response, a petition under 37 C.F.R. §1.47, on December 7, 2001. Since a request for the appropriate extension of time accompanied this petition, it was timely.

THE RULE

37 C.F.R. §1.47

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(l) and the last known address of the nonsigning inventor. The Patent and Trademark Office shall, except in a continued prosecution application under §1.53(d), forward notice of the filing of the application to the nonsigning inventor at said address and publish notice of the filing of the application in the Official Gazette. The nonsigning inventor may subsequently join in the application on filing an oath or declaration complying with §1.63.

ANALYSIS

It is noted that while rule 47 is essentially a waiver of the requirement that the inventor sign the declaration, it does not relieve Petitioner of the obligation of submitting a valid declaration under 35 U.S.C. §25, 35 U.S.C. §115, 37 C.F.R. §1.63, and 37 C.F.R. §1.68.

A valid declaration must contain the citizenship of every inventor.¹ It also must state the mailing address of the inventors.² This declaration fails to do that for the nonsigning inventors.

Therefore, *this petition is dismissed.*

Petitioner is given TWO MONTHS from the mailing date of this decision to respond, correcting the above-noted deficiency. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

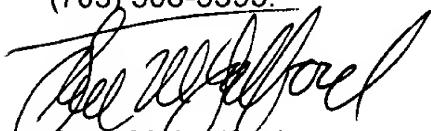
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
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Telephone inquiries related to this decision should be directed to the undersigned at
(703) 306-5593.



Scott M. Ledford
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ 35 U.S.C. 115, 37 C.F.R. 1.63.

² 37 C.F.R. 1.63